

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**MOTION FOR EXTENSION OF TIME AND  
RESPONSE TO SHOW CAUSE ORDER**

COME NOW Defendants Diane Harris and Albert McKee and move this Court to extend their time until April 26, 2007 for filing their answer and written report to Plaintiff's complaint as directed by this Court's orders entered February 12, 2007 and April 2, 2007 and to respond to this Court's April 2, 2007 Order to show cause. In support of this motion and response, Defendants Harris and McKee state as follows:

1. On February 12, 2007, this Court entered an order for Defendants Harris and McKee to file a special report within forty (40) days of that order. (Doc. 4). On that date, this Court also entered its Recommendation of the Magistrate Judge with regard to the Plaintiff's claims against the Butler County Jail which stated that "the court concludes that Plaintiff's claims against this defendant should be dismissed." (Doc. 5).

2. Diane Harris left office as Sheriff of Butler County in January of 2007. The undersigned is not aware at this time as to whether she actually received a copy of the Order for the Defendants to file a special report and a copy of the complaint attached thereto, or the Order to show cause.<sup>1</sup> Defendant Albert McKee, when served a copy of the order to file a special

<sup>1</sup> According to PACER the return receipt card showing service of the Order and complaint to Diane Harris was signed by "Leslie S. (illegible)." (See Doc. 6).

report and Recommendation of the Magistrate Judge, noted that the Recommendation of the Magistrate Judge stated “the court concludes that Plaintiff’s claims against this defendant should be dismissed.” (Doc. 5 at p. 1). When Defendant McKee read this, he misunderstood this statement to mean that the Court was recommending that all Defendants be dismissed.

3. When Defendant McKee received a copy of this Court’s order of April 2, 2007 (Doc. 8), Defendant McKee forwarded this to the county administrator for referral to litigation counsel. The undersigned counsel received this Court’s orders and the complaint today.

4. Defendants herein respectfully request this Court to grant an extension of time to April 26, 2007 to, first, determine whether Sheriff Harris is aware of this case and, then, to prepare a special report and answer to the complaint.

WHEREFORE, PREMISES CONSIDERED, Defendants Diane Harris and Albert McKee responds to this Court’s show cause order and respectfully move this Court to grant them an extension of time to April 26, 2007 in order to file their special report and answer.

Respectfully submitted on this the 16th day of April, 2007.

**s/Kendrick E. Webb**  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this the 16th day of April, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and I hereby certify that I have mailed a copy of the foregoing by United States Mail, postage prepaid, to the following non-CM/ECF participant:

Garry Damon Worthey  
AIS 248464  
Fountain Correctional Facility  
Fountain 3800  
Atmore, AL 36503

s/**Kendrick E. Webb**  
OF COUNSEL